

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

JOHN HANCOCK LIFE INSURANCE
COMPANY, JOHN HANCOCK VARIABLE
LIFE INSURANCE COMPANY, and
MANULIFE INSURANCE COMPANY (f/k/a
INVESTORS PARTNER INSURANCE
COMPANY),

Plaintiffs,

vs.

ABBOTT LABORATORIES,

Defendant.

Civil Action No. 05-11150-DPW
Hon. Judge Douglas P. Woodlock

**SUPPLEMENTAL ERRATA RE: ABBOTT’S RESPONSE TO HANCOCK’S
“STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF PLAINTIFFS’
MOTION FOR PARTIAL SUMMARY JUDGMENT ON COUNT II OF FIRST
AMENDED SUPPLEMENTAL COMPLAINT” AND AFFIDAVIT OF OZGE GUZELSU**

Abbott Laboratories (“Abbott”) respectfully submits this Supplemental Errata in connection with its Response to Hancock’s “Statement of Undisputed Facts in Support of Plaintiffs’ Motion for Partial Summary Judgment on Count II of First Amended Supplemental Complaint” (“Response”) and the Affidavit of Ozge Guzelsu ("Affidavit"). This Supplemental Errata corrects certain inadvertent errors that came to Abbott's attention after reviewing the Response in light of Hancock's reply memorandum, which claimed assertions of fact were unsupported by the record citations. For example, in the last sentence of footnote 22 on page 61 of the Response, Abbott inadvertently omitted the word “no”. The sentence should read “This observation is consistent with the testimony of Dr. Bukofzer and Carol Meyer, the two individuals responsible for the ABT-773 development program that there was no data suggesting

QT prolongation at the doses at which ABT-773 would be prescribed for patients.” As is clear from the rest of the footnote, the record citations provided, and Abbott’s discussion of QT issues on page 20 of its opposition brief, this is not a substantive change but only a correction of a typographical error. The other changes to the Response are listed below and principally consist of corrections to citations of exhibits. Also, page 156 of the transcript of the deposition of Bruce McCarthy was inadvertently omitted from Exhibit 40 to the Affidavit. A true and correct copy of the missing page is attached hereto as Exhibit A. Abbott will separately submit a corrected version of the Response to the Court and Hancock. Abbott apologizes to the Court for any inconvenience caused by these inadvertent errors.

Location in Response	Original Text	Corrected Text
Page 3, line 4	Guzelsu Exh. 147	Guzelsu Exh. 160
Page 3, line 17	JH0023078	JH002308
Page 4, line 7	another half	another
Page 4, line 19	Zwicker Exh. 147	Guzelsu Exh. 147
Page 9, line 6-7	JH003015-16 gully 11, 2000 Research Summaries at JH003015-16	JH003014
Page 10, line 16	(Guzelsu Exh. 22); Sept. 9, 1998 Facsimile from Klotz to Blewitt (Guzelsu Exh. 22)	(Guzelsu Exh. 21)
Page 14, line 20	<i>Id.</i>	Blewitt Tr. at 100:16-19 (Guzelsu Exh. 7)
Page 19, line 13	\$100 million	\$110 million
Page 19, line 15	(Guzelsu Exh. 4)	(Guzelsu Exh. 4); RFA, § 3.1 (Zwicker Exh. 16)
Page 21, line 4-5	<i>see also</i> March 2001 MPSR at ABBT0000349 and ABBT0000345	<i>see also id.</i> at ABBT0000345 and March 2001 MPSR at ABBT0000351

Page 22, line 15	Zwicker Exh. 25 at ABBT0118741 (Guzelsu Exh. 146?).	Zwicker Exh. 25 and Guzelsu Exh. 146 at ABBT0118741.
Page 23, line 18	MCK00423	MCK00425
Page 24, line 13	“no survival advantage in gastric cancer”	“no survival advantage [in pancreatic cancer]”
Page 27, line 17-18	defer “any further enrollment”	defer any further enrollment
Page 27, line 18	(Zwicker Ex. 38).	(Zwicker Ex. 38); Leiden Tr., 248:16-254:18 (Guzelsu Exh. 37).
Page 28, line 19	May 13, 2001	March 13, 2001
Page 34, line 16	Hartz Tr., 28:12-14	Hartz Tr., 49:8-50:15
Page 36, line 15	JH001196	JH001197
Page 36, line 16	\$124 million	\$214 million
Page 36, line 16-17	Expert Report of Avram S. Tucker at 24, Exh. 2 (Guzelsu Exh. 34); Tucker Tr., 238:19-239:23 (Guzelsu Exh. 157)	Expert Report of Avram S. Tucker at 24 & Exh. 2 (Guzelsu Exh. 157); Tucker Tr., 238:19-239:23 (Guzelsu Exh. 34)
Page 38, line 5	could be “too narrow”	could be too narrow
Page 44, line 2	April 2000	April 2001
Page 50, line 21	March 7-9, 2001 MPSR at ABBT297541-42 and ABBT297554 (Guzelsu Exh. 82)	March 2, 2001 Memorandum with attached Final Reference Package at ABBT0037544 (Zwicker Exh. 28); RFA at JH008121 (Zwicker Exh. 16)
Page 51, line 3-4	March, 2001. <i>Id.</i>	March 2001. March 7-9, 2001 Abbott Portfolio Review at ABBT297541-42 (Guzelsu Exh. 82)
Page 51, line 4-5	one planned and six proposed	seven "Planned / Proposed"
Page 52 n.18, line 4	(Guzelsu Exh. 42)	(Guzelsu Exh. 42 and Zwicker Exh. 33)
Page 60, line 15	Bukofzer Tr., 226:19-227:3	Bukofzer Tr., 49:17-50:14, 116:19-117:5, 192:17-193:8, 226:19-227:3
Page 60 n.2, line 11	there was data	there was no data

Page 61, line 8-9	Bukofzer Tr., 315:4-12; 121:20-122:6; 193:18-194:1	Bukofzer Tr., 192:17-193:8
Page 65, line 20-23	ABT-773 February 2001 . . . at ABBT0000390 . . . (Guzelsu Exh. 105)	ABT-773 January 2001 . . . at ABBT0000303 . . . (Guzelsu Exh. 99)
Page 66, line 15	at ABBT271810-11	at ABBT271784
Page 67, line 15	RFA at JH0088117	RFA at JH008117
Page 67, line 23- Page 68, line 3	When Mr. Blewitt was asked at his deposition on May 16, 2007 to identify all the alleged misrepresentations or material omissions in the RFA, he did not identify anything related to the dosing of ABT-773. Blewitt Tr., 329:16-333:9 (Guzelsu Exh. 7)	(Deleted)
Page 68, line 16	Feb. 2001 MPSR	March 2001 MPSR at ABBT0000429
Page 72, line 8	ABBT0576832	ABBT0576853
Page 79, line 12	Fox. Tr. Exh. 16 at ABBT271809 (Guzelsu Exh. 112)	ABBT-773 Agenda at ABBT271796 (Guzelsu Exh. 112)
Page 80, line 19	explained that between April and September 2001, the expected	explained that the expected
Page 81, line 6-7	in September 2001, six months	in November 2001, eight months
Page 83, line 12	Statement in paragraph 37	Statement in paragraph 52
Page 86, line 15	June 29, 2007 Article (Guzelsu Exh. 118)	June 11, 2007 Article (Guzelsu Exh. 144)
Page 87, line 4	"but for" analysis.	"but for" analysis. <i>Id.</i> at 83:10-20.

Respectfully submitted,

ABBOTT LABORATORIES

/s/ Michael S. D'Orsi

Michael S. D'Orsi

Dated: September 17, 2007

Jeffrey I. Weinberger (pro hac vice)

Gregory D. Phillips (pro hac vice)
Eric J. Lorenzini (pro hac vice)
Ozge Guzelsu (pro hac vice)
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, Thirty-Fifth Floor
Los Angeles, CA 90071-1560
(213) 683-9100

and

Peter E. Gelhaar (BBO#188310)
Michael S. D'Orsi (BBO #566960)
DONNELLY, CONROY & GELHAAR LLP
1 Beacon St., 33rd Floor
Boston, Massachusetts 02108
(617) 720-2880
peg@dcglaw.com
msd@dcglaw.com

Counsel for Abbott Laboratories

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on Sep. 17, 2007.

Date: Sep. 17, 2007

/s/ Michael S. D'Orsi

Exhibit A

1 terminate. Do you see that?

2 A. Yes.

3 Q. Were you aware that in early March 2001 Abbott
4 management regarded ABT-594 as a probable
5 terminate?

6 MR. PHILLIPS: Object to the form.

7 A. No.

8 Q. You didn't hear that at all in March 2001 time
9 frame?

10 A. No.

11

12 (At which time, a discussion was
13 held off the record.)

14

15

16 (At which time, Plaintiff's Exhibit
17 111 was marked for identification by the
18 Court Reporter.)

19

20 BY MR. DAVIS:

21 Q. Dr. McCarthy you have Exhibit 111 in front of
22 you. Have you seen this document before?

23 A. Yes -- well at least something that looks
24 familiar to this or similar to this in
25 preparation with Mr. Phillips.